

Gweithdrefn Fabwysiadu Ysgolion

Schools Adoption Procedure

**Os hoffech dderbyn gohebiaeth mewn perthynas a'ch
cyflogaeth yn Gymraeg, cysylltwch a'ch Swyddog AD
dynodedig**

**Os hoffech gynnal y broses hon yn Gymraeg, cysylltwch
a'ch Swyddog AD dynodedig**

Signed: 
Date: 02.10.2025
Review: Autumn '26

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1. INTRODUCTION

The purpose of this Scheme is to support adoptive parents by providing time off work for them to bond with a newly adopted child (ren) once he/she starts living with them. For ease of reference, this Scheme also sets out the rights of adoptive parents to paternity leave, parental leave and time off for dependants.

2. EMPLOYEES COVERED BY THIS SCHEME

This Scheme applies to **all School Staff employed by the Governing Body.**

3. ACCESSIBILITY

Any employee who informs her/his Headteacher of his/her intention to adopt a child will be given a copy of the Scheme and advice on the Scheme, as necessary.

4. ELIGIBILITY FOR ADOPTIVE LEAVE

4.1 This Scheme covers only the leave and pay rights where a child is matched and placed for adoption within the UK. An employee who adopts a child from overseas may be eligible for equivalent levels of adoptive leave and pay or paternity leave and pay. Where an employee plans to adopt a child from overseas, he/she is advised to contact the Department of Health Inter-country Adoption Team on 020 79724014 or your Directorate HR Officer at an early stage, for details of his/her rights and associated eligibility requirements.

4.2 The rights to adoption and paternity leave and pay entitle all eligible employees to take paid leave when a child is newly placed for adoption.

Adoption leave and pay are available to:

- ❖ individuals who adopt
- ❖ one member of a couple where a couple adopt jointly (the couple must choose which partner takes adoption leave)

4.3 The partner of an individual who adopts, or the other member of a couple who are adopting jointly, may be entitled to paternity leave and pay.

5. START DATES

Both paid adoption leave and paid paternity leave detailed in this scheme are available to employees where an adoption agency notifies the adopter of a match with a child(ren) on or after 1 April 2007.

6. ADOPTION LEAVE AND PAY

6.1 Eligibility (statutory adoption leave/pay)

To qualify for adoption leave/pay, an employee must:

- be *newly matched with a child for adoption by an adoption agency have worked continuously for their employer for 26 weeks ending with the week in which they are notified of being matched with a child for adoption

*[*Adoption leave and pay is not available in circumstances where a child is not newly matched for adoption, for example when a step-parent is adopting a partner's children]*

6.2 Length of Statutory adoption leave

Eligible employees are entitled up to 26 weeks' ordinary adoption leave followed immediately by up to 26 weeks' additional adoption leave - a total of up to 52 weeks' leave.

Employees can choose to start their leave:

- From the date of the child's placement (whether this is earlier or later than expected), **or**
- From a fixed date which can be up to 14 days before the expected date of placement.

Leave can start on any day of the week. It must be taken in the form of full weeks, rather than individual days. Only one period of leave is available irrespective of whether more than one child is placed for adoption as part of the same arrangement. If the child's placement ends during the adoption leave period, the adopter can continue adoption leave for up to eight weeks after the end of the placement.

6.3 Statutory Adoption Pay (SAP)

During their adoption leave, eligible employees are entitled to Statutory Adoption Pay (SAP) from their employers. Statutory Adoption Pay is paid by employers for up to 39 weeks. The rate of Statutory Adoption Pay is the amount set annually by the Government OR 90% of your average weekly earnings, if this is less, for the duration of the SAP period.

Adopters who have average weekly earnings below the Lower Earnings Limit for National Insurance Contributions (details of the NI contribution limits can be obtained from the payroll Section or the local social security office) do not qualify for SAP. Employees should contact their adoption agency as they may be able to receive financial support in relation to their adoption payment. Additional financial support may be available through Housing Benefit, Council Tax Benefit or Tax Credits. Further information is available from your local Jobcentre Plus office or Social Security office.

- 6.4 Occupational Adoption Pay (OAP)** – Employees who have completed one year or more continuous Local Government Service at the beginning of the 11th week before expected week of childbirth will be entitled to Occupational Adoption Pay (OAP) as follows:-

Non-teaching

- **Weeks 1-6:-** For the first 6 weeks the employee will be entitled to 9/10ths of a week's pay. This payment includes Statutory Adoption Pay and will be paid regardless of whether the employee returns to work.
- **Weeks 7-18:-** Provided the employee has given an undertaking to return to work for 3 months*, for the next 12 weeks the employee will be entitled to half pay in addition to 12 weeks flat rate SAP.
 - (Please note: the total of the half pay plus flat rate SAP must not exceed full pay). Alternatively, the equivalent of 12 weeks of half pay may be evenly spread over 20 weeks (covering weeks 7-26).
- **Weeks 19-39:-** For the next 21 weeks the employee will be paid flat rate Statutory Adoption Pay.

Teaching Staff

- **Weeks 1- 4:-** 4 weeks at full pay. This includes Statutory Adoption Pay and will be paid regardless of whether the individual returns to work.
- **Weeks 5-6:-** 2 weeks at 9/10th of a week's salary. This includes Statutory Adoption Pay and will be paid regardless of whether the individual returns to work.
- **Weeks 7-18:-** Provided the employee has given an undertaking to return to work for 3 months*, for the next 12 weeks the employee will be entitled to half pay in addition to 12 weeks flat rate SAP.
 - (Please note: the total of the half pay plus flat rate SAP must not exceed full pay). Alternatively, the equivalent of 12 weeks of half pay may be evenly spread over 20 weeks (covering weeks 7-26).
- **Weeks 19-39:-** For the next 21 weeks, the employee will be paid flat rate Statutory Adoption Pay.

***Employees who do not return to work for three months will be required to repay the twelve weeks half pay**

6.5 Notice of intention to take adoption leave

Adopters are required to inform their Headteacher of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. They need to tell the Headteacher and Directorate HR Officer:

- When the child is expected to be placed with them and
- When they want their adoption leave to start.

Adopters can change their mind about the date on which they want their leave to start providing they tell the Headteacher and Directorate HR Officer at least 28 days in advance (unless this is not reasonably practicable). They must tell the Headteacher and Directorate HR Officer the date they expect any payments of SAP to start at least 28 days in advance, unless this is not reasonably practicable.

6.6 The Authority's Letter of Response

The Council have 28 days in which to respond to the employees' notification of their leave plans. The Council must write to the employee, setting out the date on which they expect the employee to return to work if the full entitlement to adoption leave is taken. (See draft model letter in **Appendix A**)

6.7 Matching certificate

Employees must give the Headteacher and Directorate HR Officer documentary evidence, from their adoption agency, as evidence of their entitlement to SAP and as evidence of entitlement for adoption leave. Employees should ask their adoption agency for this documentary evidence, which may be provided in the form of a matching certificate which includes basic information on matching and expected placement dates. (See model Matching Certificate in **Appendix B**)

6.8 Contractual benefits and obligations

Employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to wages or salary (unless their contract of employment provides otherwise), throughout their 26-week **ordinary adoption leave** period. For example, where an employee normally receives essential car user allowance, this allowance will continue to be payable during the ordinary adoption leave period, but there will be no entitlement during additional adoption leave (see below). Employees are also bound by any obligations in their normal terms and conditions of employment, unless they are inconsistent with the right to take adoption leave. During **additional adoption leave**, the employment contract continues and some contractual benefits and obligations remain in force, for example compensation in the event of redundancy and notice periods. The employee is bound by his/her obligation of good faith and any terms and conditions relating to notice; disclosure of confidential information; acceptance of gifts and other benefits; and employee's participation in any other business.

6.9 Sickness

Ordinary and **additional adoption leave** shall be regarded as service for the purposes of the National Joint Council's Sickness.

6.10 Right to Return to Work

An employee who returns to work after taking only ordinary adoption leave will be entitled to return to the job in which he/she was employed before the leave began provided he/she did not take any additional adoption leave or more than 4 weeks parental leave.

If the employee did take additional adoption leave or parental leave of more than 4 weeks he/she is entitled to return to the same job or, if that is not reasonable practicable, to another job which is suitable and appropriate for him/her to do in the circumstances.

On his/her return, the employee's terms and conditions will be no less favourable than those that would have applied if he/she had not been absent.

Where it is not practicable because of a general reorganisation or redundancy for the School to permit the employee to return to his/her original job, he/she must be offered a suitable alternative vacancy where one exists, provided that the work to be done is suitable to him/her and appropriate to the circumstances. Redeployment opportunities will be sought from all schools/directorates. The employee will be eligible to be redeployed in accordance with the School's procedures for dealing with redeployment.

6.11 Notification of Return to work after adoption leave

Adopters who intend to return to work at the end of their full adoption leave entitlement do not have to give any further notification to the School. Adopters, who want to return to work early before the end of their adoption leave period, must give the Headteacher and Directorate HR Officer **eight weeks'** notice of the date they intend to return.

If the employee fails to give sufficient notice, the Headteacher can postpone the employee's return so that it receives **eight weeks'** notice. However the Headteacher cannot postpone the employee's return beyond the end of the additional adoption leave period. If the employee insists on working despite the Headteacher's postponement, he/she has no entitlement to be paid.

If an employee's adoption leave has been cut short due to the disruption of the placement, he/she must still give **eight weeks'** notice to return early.

6.12 Altering an early return date

If an employee wants to return even earlier than the date they have already notified, they will have to give notice eight weeks before the new date. If an employee wants to postpone their early return date they will have to give notice eight weeks before the original early return date.

6.13 Pension Contributions

During any periods of **paid** adoption leave (including any period when only Statutory Adoption pay is paid) the employee will continue to pay pension contributions. These are paid on the actual pay he/she is receiving, but benefits accrue normally on full pay. If the employee intends to return to work, he/she can choose to pay contributions for any period of **unpaid**

adoption leave so that the period of absence will count in full for pension purposes. The contributions will be calculated on the rate of pay that he/she was receiving immediately before he/she commenced the period of unpaid adoption leave.

6.14 Time off for appointments

If eligible for adoption leave, an employee will be entitled to paid time off for up to 5 adoption appointments after you have been **matched** with a child.

7. CONTACT/KEEPING IN TOUCH WHILST ON ADOPTION LEAVE

7.1 Prior to the employee going on adoption leave, the Headteacher will discuss how contact will be maintained. It is important that the employee is kept informed of all relevant work issues during the adoption leave, such as job vacancies, significant workplace developments and training opportunities.

7.2(a) Keeping in Touch Days are intended to facilitate a smooth return to work for an employee returning from adoption leave. Before going on leave, the employee should discuss and agree with his/her Headteacher, any voluntary arrangements for keeping in touch during the employee's adoption leave. Agreement should be reached on the type of work and payment arrangements (see paragraph c below). An employee may work for up to 10 KIT days during SAP or OAP without bringing his/her leave to an end.

(b) The work can be consecutive or not, and can include training and other activities which enable the employee to keep in touch with the workplace. Any such work must be by agreement and neither the employer nor the employee can insist upon it.

(c) The payment arrangements for KIT days are set out in Appendix C.

8. PATERNITY LEAVE AND PAY (ADOPTION)

Following the placement of a child for adoption, the rights to paternity leave and pay give eligible employee's the right to take paid leave to care for their new child or support the adopter.

8.1 Employees must satisfy the following conditions in order to qualify for paternity leave/statutory paternity pay. They must:

- have or expect to have responsibility for the child's upbringing
- be the adopter's spouse, partner or civil partner
- have worked continuously for their employer for 26 weeks ending with the week in which the adopter is notified of being matched with a child.
- Be taking time off either to support the adopter or care for the newly adopted child. This leave cannot be taken for any other purpose.

8.2 Length of paternity leave

Eligible employees are entitled to choose to take either one week or two consecutive weeks' paid paternity leave (not odd days).

Employees can choose to start their leave:

- from the date of the child's placement (whether this is earlier or later than expected), **or**
- from a chosen number of days or week after the date of the child's placement (whether this is earlier or later than expected), **or**
- from a chosen date which is later than the date on which the child is expected to be placed with the adopter.

Leave can start on any day of the week or following the child's placement but must be completed within 56 days of the child's placement. Only one period of leave is available to employees irrespective of whether more than one child is placed together. Regardless of whether the employee chooses to take one or two weeks, the leave must be taken in a single block.

8.3 Statutory Paternity Pay

During their paternity leave, most eligible employees are entitled to Statutory Paternity Pay (SPP) from their employers.

Statutory Paternity Pay is paid by employers for either one or two consecutive weeks as the employee has chosen. The rate of Statutory Paternity Pay is the amount set annually by the Government OR 90% of your average weekly earnings, if this is less.

Employees who have average weekly earnings below the Lower Earnings Limit for National Insurance purposes (details of the NI contribution limits can be obtained from the payroll section or the local social security office) do not qualify for SPP. Employees who do not qualify for SPP, or who are normally low paid, may be able to get Income Support while on paternity leave. Additional financial support may be available through Housing Benefit, Council Tax Benefit, Tax Credits or a Sure Start Maternity Grant. Further information is available from your local Jobcentre Plus office or Social Security office.

8.4 Relationship with contractual "Maternity Support Leave"

All adopting employees who meet the eligibility requirements and conditions for Paternity Leave & Pay will also be entitled to contractual Maternity Support Leave, which will run concurrently with the Statutory Paternity Leave. Their pay over the 2 week paternity leave period will be as follows:

- Week 1: one week's pay*, offset against payments made by way of SPP
- Week 2: one week's SPP

8.5 Notice of intention to take paternity leave

Employees must inform their Headteacher of their intention to take paternity leave within seven days of the adopter being notified by their adoption agency that they have been matched with a child, unless this is not reasonably practicable. They must tell their Headteacher:

- the date on which the adopter was notified of having been matched with the child
- when the child is expected to be placed
- whether they wish to take one or two weeks' leave
- when they want their leave to start.

Employees can change their mind about the date on which they want their leave to start providing they tell their Headteacher 28 days in advance (unless this is not reasonably practicable). Employees can tell their employers the date they expect any payments of SPP to start at least 28 days in advance, unless this is not reasonably practicable.

8.6 Self certificate

Employees must give their Headteacher a completed self certificate as evidence of their entitlement to SPP. The self certificate set out in **Appendix C** must be completed and returned to the Headteacher.

8.7 Contractual benefits and obligations

Employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to pay (unless their contract of employment provides otherwise), throughout their paternity leave.

Employees are also bound by any obligations in their normal terms and conditions of employment, except those that are inconsistent with the right to take paternity leave.

8.8 Return to work after paternity leave

Employees are entitled to return to the same job, or if that is not reasonable practicable, to another job both suitable to him/her and appropriate for him/her to do in the circumstances.

9. RIGHTS TO PARENTAL LEAVE AND TIME OFF FOR DEPENDANTS

9.1 All employees (subject to having one year's service with the Council) - are entitled to 18 weeks' (pro rata for part timers) (unpaid) parental leave to care for their child. Parental leave can usually be taken up to eight years from the date of birth or in cases of adoption eight years from the date of placement (or the child's 18th birthday, if that is sooner).

9.2 All employees are also entitled to take a reasonable amount of (unpaid) (in most cases, one or two days) time off work to deal with an emergency or unexpected situation involving a dependant. This is known as “Time Off for Dependants Leave”. The School has a Leave of absence Scheme which covers time off to deal with the serious illness or death of a close relative.

9.3 Further details of the School’s Parental Leave, Leave of absence Schemes respectively are set out in separate policy documents, which are available from the Headteacher and on the intranet.

10. OPERATION OF THE ADOPTIVE PARENTS LEAVE AND PAY SCHEME

10.1 Further information and advice on the Scheme may be obtained from the Headteacher.

10.2 Any grievance arising will be dealt with in accordance with the School’s Grievance Procedure.

10.3 The provisions of this Adoption Leave Scheme will be subject to periodic review.

APPENDIX A

Model letter for employers to acknowledge notification of adoption leave.

(Employer must respond within 28 days of receipt of employees' notification).

Date:

Dear *[name of employee]*,

Congratulations and thank you for telling me that you will be adopting a son/daughter. I am writing to you about your adoption leave and pay.

As we have discussed, you are eligible for **occupational adoption leave and pay** (see paragraph 6.4 of the Scheme), which will run concurrently with any right to statutory adoption leave and you **are /are not** *[delete as appropriate]* eligible for **52 weeks' statutory adoption leave/pay** (see paragraph 6.3 of the Scheme). The SAP payments are calculated as follows; (.....)

Given your chosen start date of *[insert date]*; your ordinary adoption leave will end on *[insert date]* and your additional adoption leave with end on *[insert date]*. If you want to change the date your leave starts you must give me the correct notice, if at all possible. Please contact me if you wish to discuss this.

If you decide to return to work before *[insert date leave ends]*, you must give me at least **eight weeks** notice.

As we discussed you are eligible for **39 weeks' Statutory Adoption Pay**

Or

The Council's Payroll Section will issue you with form SAP1 which explains why you do not qualify for Statutory Adoption Pay. You should contact your adoption agency to find out if you can get any other help.

If you decide not to return to work, you must still give me proper notice. Your decision will not affect your entitlement to SAP.

I would encourage you to discuss your annual leave entitlements with your manager at the earliest opportunity.

If you have any questions about any aspect of your adoption entitlements please do not hesitate to get in touch with me. I wish you well.

Yours sincerely,

HR Employment Support Team

APPENDIX B

Matching Certificate Statutory Adoption Leave and Pay

This certificate when completed by the appropriate adoption agency may be used as evidence for the purposes of Statutory Adoption Leave and Pay. It confirms that the named person(s) has been matched with a child for adoption.

A. Name and address of adoptive parent(s): _____

I confirm that the person(s) named above has been matched by this agency with a child for adoption and they were notified of this on: _____

It is expected that the child will be placed with them on: _____

The child has already been placed with them, this occurred on: _____

B. Agency name and address:

Agency stamp:

This is an adoption agency within the meaning of the Adoption Act 1976 or the Adoption (Scotland) Act 1978.

Name: _____

Title: _____

Signature: _____

Date: _____

Payment Arrangements for Keeping in Touch (KIT) days

An employee can do up to 10 days work during his/her adoption leave without bringing the adoption leave to an end or losing any SAP. Working for part of a day will count as one day. Adoption leave will not be extended due to the fact that the employee has carried out work during this period.

An employee will lose his/her SAP for any week in which she does any further work beyond the 10 day limit.

The payment arrangements for any work undertaken by an employee as a KIT day is a matter for agreement between the employee and employer, using the options below. An employee will continue to receive his/her SAP (and occupational adoption pay – OAP) for the week in which he/she works, however, in most cases the employee should be paid for any work carried out under the contract. Issues to take into account will include the nature of the work and its duration. It is open to an employer to offset the SAP and/or OAP for the period worked against any pay due. These matters should be discussed and clearly agreed before any work is undertaken.

There are a number of options for the payment arrangements for KIT days (However, payment for KIT days should not exceed full pay), for example;

- Employees paid normal rate of adoption pay for KIT days worked during OAP however when KIT days are worked during the unpaid period of leave employees to be compensated according to their normal contractual hourly rate of pay.
- Employees paid normal rate of adoption pay for KIT days but TOIL could be offered to compensate for any hours worked.
- If adoption pay has reduced to half plus SAP the pay to be increased up to the normal rate when a KIT day is used.

Application for Statutory Paternity Pay/Paternity Leave



Human Resources

APPENDIX D

Application for Statutory Paternity Pay/Paternity Leave			
Your Dates and Pay for Leave			
The adoption agency told the person adopting the child they had been matched with the child on:			
The child is expected to be placed on:			
And, if the child has been placed, please enter the date they were placed:			
I would like my SPP and/or paternity leave to start on:			
I would like one/two weeks off work (delete as appropriate)			
Your Declaration			
Surname			
First Name(s)			
National Insurance No.			
You must tick this box if you are adopting a child with your partner.			
I declare that I am adopting the child with my partner and I want to receive Statutory Paternity Pay and paternity leave not Statutory Adoption Pay and adoption leave.			☐
You must be able to tick all three boxes below in order to be eligible for Statutory Paternity Pay and paternity leave.			
I declare that I am;			☐
- married to the person adopting the child, or			☐
- living with the person adopting the child in an enduring family relationship, but am not an immediate relative, or			☐
- civil partner; and I will have responsibility for the child's upbringing; and			☐
I will take time off work to support the person adopting the child or to care for the child			
Signed		Date	

